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| 10/667,479   | 09/23/2003  | Laurent C. Bissonnette | 20002.0327          | 9070             |
| 79175 7590 06/04/2009<br>HANIFY & KING PROFESSIONAL CORPORATION<br>1055 Thomas Jefferson Street, NW<br>Suite 400<br>WASHINGTON, DC 20007 |             |                        |                     |                  |
| EXAMINER   |             |                        |                     |                  |
| HSU, RYAN  |             |                        |                     |                  |
| ART UNIT   |             | PAPER NUMBER           |                     |                  |
| 3714   |             |                        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/667,479

**Applicant(s)**

BISSONNETTE, LAURENT C.

**Examiner**

RYAN HSU

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 24-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In response to the Request for Continued Examination (RCE) under 37 CFR 1.114 filed on 3/30/09, claims 1, 12, 24 have been amended. Claims 1-18 and 24-28 are pending in the current application.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-18 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (US 5,342,054) and McTeigue et al. (US 5,372,365) and Ogawa et al. (US 4,451,043) and Yamazaki et al. (US 5,447,314) and Nesbit et al. (US 6,983,637 B2) in farther view of Kiraly (US 2004/0032970 A1).**

Regarding claims 1 and 24, Chang et al. teaches an imaging system for determining the kinematics or movement of an object, comprising: a trigger positioned in front of a target area through which an object passes (*see sensor array [20,22] of Fig. 1 and the related description thereof*); and a camera operatively connected to a trigger to capture optical images of one or more objects (*see camera 26, 28, and 30 of Fig. 1 and the related description thereof*). Furthermore, Chang teaches of an imaging device operatively connected to a computing device

that determines the position and velocity for the object based on the output from the receiver and is capable of calculating a dwell time for consecutive optical images (*see Figs. 1-2 and the respective related descriptions thereof*). However, Chang et al. is silent with respect to a trigger that uses ultrasonic waveforms.

In a related golfing system patent, McTeigue et al. teaches that convenient methods of transmission devices to communicate user signals (*ie: a trigger*) may take the form of analogue or digital signals by means of radio frequency or other electromagnetic wave forms, e.g. infrared or ultrasonic transmitters and receivers (*see col. 10: ln 25-56*). As McTeigue teaches that the communication of use signals can take the form of electromagnetic wave, e.g. infra-red or ultrasonic; could be used (*see col. 10: ln 15-30*). Therefore one would be motivated to implement an ultrasonic device as a common triggering device alternative, it would have only taken one of routine skill in the art to recognize its equivalence to that of the sensor array taught in Chang. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reference of Chang with that of McTeigue to incorporate an art recognized equivalent into the triggering device to form an ultrasonic trigger instead of the disclosed sensor array of Chang. However, McTeigue and Chang suggest the use of and equivalence of an ultrasonic trigger with that of the infra-red and optical triggers, but does not specifically teach of an embodiment that uses an ultrasonic trigger.

In an analogous patent, Ogawa et al. teaches a golf trainer that uses sensors arranged in a case that processors the output by the sensors to display various information relative to a club swing of a user. Ogawa teaches the use of using a ultrasonic detect means as an art equivalent to the three magnetic sensors in the basic embodiment as well as teaching various other types of

equivalent detector means (*see '4,451,043', col. 4: ln 30-36*). In another gaming patent, Yamazaki et al. teaches a golf ball locating system that incorporates an ultrasonic sensor that relays information to remote device that analyzes the "intensity data" and the range and direction of the ball. One would be motivated to incorporate the teachings of Ogawa and Yamazaki into that of the Chang patent in order to accurately provide feedback on a golf swing and flight of a golf ball in order to allow a player to improve a user's golf stroke (*see '5,447,314, col. 2: ln 10-col. 3: ln 50*). Additionally, the two references teach the incorporation and implementation of ultrasonic triggers beings used to trigger signals in a system and therefore are old and well known in the art at the time the invention was made to be incorporated to a golf swing tracking system. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ultrasonic triggers taught in Ogawa and Yamazaki into that of Chang at the time the invention was made.

In an analogous golf system, Nesbit teaches an apparatus that evaluates and images golf club heads. Specifically Nesbit teaches the imaging system to be initiated by an ultrasonic trigger. This occurs when the ball is passed by or through the sensor which then initiates the computing process to collect the data, much as how the optical sensors of Chang are use to signal and initiate the data necessary to produce the kinematics of an object (*see col. 6: ln 33-40*). One would be motivated to incorporate the features of an ultrasonic sensor as it is an effective means of communicating user signals as is already well taught in the art (*see McTeigue, col. 10: ln 15-40*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Nesbit with that of McTeigue and Chang in order to produce a golf practice apparatus that provides recording and instant playback of a video

image of a golfer's swing being initiated by an ultrasonic trigger. However, Nesbit, Ogawa, Yamazaki, McTeigue and Chang are silent with respect to providing the ultrasonic trigger to be positioned to determine the movement of an object swung by a left or right handed player.

In an analogous golfing patent, Kiraly teaches a golf imaging system that uses a trigger position of a camera window frame for monitoring when the golf ball or golf club moves or comes into view. Kiraly teaches that the camera and trigger is placed either on the left or right of the camera window depending on the placement of the camera with respect to the golf player (see paragraph [0073]). One would be motivated to incorporate such a feature in order to provide the system to be adaptable to both left and right handed players as they will address the ball differently from one another. Additionally, as the instant system is adaptable for humans the only way in which people are oriented to swinging a club is being designated between a right or a left handed player. Therefore it would have been obvious to try in adapting the system for both types of players. *In arguendo*, Kiraly would provide the expected result of adapting the golf system for all types of golfers and therefore would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kiraly with that of Chang, McTeigue, Yamazaki, Ogawa and Nesbit to have the ultrasonic trigger imaging system to be capable of analyzing swings from a left or a right handed player.

Regarding claims 12, Chang et al. teaches a system for simultaneously measuring golf club properties and golf ball properties during a golfer's striking of a golf ball, the system comprising: a first camera and a second camera, each of the first and second cameras focused towards a predetermined field of view (see camera [28, 30] of Fig. 1 and the related description thereof); a golf club having at least one optical marker; a golf ball within the predetermined field

of view (*see Fig. 1 and the related description thereof*); and a trigger that emits waves along a path of a golf club swing, the trigger capable of estimating the golf club speed (*see Fig. 7 and the related description thereof*). Furthermore, Chang teaches wherein the first and second cameras capture optical images of at least one of the golf ball and golf club based on the estimated golf club speed (*see col. 7: ln 1-15*). However, Chang et al. is silent with respect to a trigger that uses ultrasonic waveforms.

In a related golfing system patent, McTeigue et al. teaches that convenient methods of transmission devices to communicate user signals (*ie: a trigger*) may take the form of analogue or digital signals by means of radio frequency or other electromagnetic wave forms, e.g. infrared or ultrasonic transmitters and receivers (*see col. 10: ln 25-56*). As McTeigue teaches that one would be motivated to implement an ultrasonic device as a common triggering device alternative, it would have only taken one of routine skill in the art to recognize its equivalence to that of the sensor array taught in Chang, Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reference of Chang with that of McTeigue to incorporate an art recognized equivalent into the triggering device to form an ultrasonic trigger instead of the disclosed sensor array of Chang.

In an analogous patent, Ogawa et al. teaches a golf trainer that uses sensors arranged in a case that processors the output by the sensors to display various information relative to a club swing of a user. Ogawa's trigger is positioned in front of a target area through which a golf club passes, the ultrasonic trigger emitting periodic pulses (*ie: inherent nature of how sensors work and the periodic pulses is dependent upon the wavelength is it attempting to sense*). Ogawa teaches the use of using a ultrasonic detect means as an art equivalent to the three magnetic

sensors in the basic embodiment as well as teaching various other types of equivalent detector means (*see '4,451,043', col. 4: ln 30-36*). In another gaming patent, Yamazaki et al. teaches a golf ball locating system that incorporates an ultrasonic sensor that relays information to remote device that analyzes the "intensity data" and the range and direction of the ball. One would be motivated to incorporate the teachings of Ogawa and Yamazaki into that of the Chang patent in order to accurately provide feedback on a golf swing and flight of a golf ball in order to allow a player to improve a user's golf stroke (*see '5,447,314', col. 2: ln 10-col. 3: ln 50*). Additionally, the two references teach the incorporation and implementation of ultrasonic triggers beings used to trigger signals in a system and therefore are old and well known in the art at the time the invention was made to be incorporated to a golf swing tracking system. As a result of the use of triggers the sensors would incorporate a time period between the periodic pulses as being greater than or equal to twice the distance of the trigger to the target area to signify when a movement has occurred. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ultrasonic triggers taught in Ogawa and Yamazaki into that of Chang at the time the invention was made.

In an analogous golf system, Nesbit teaches an apparatus that evaluates and images golf club heads. Specifically Nesbit teaches the imaging system to be initiated by an ultrasonic trigger. This occurs when the ball is passed by or through the sensor which then initiates the computing process to collect the data, much as how the optical sensors of Chang are use to signal and initiate the data necessary to produce the kinematics of an object (*see col. 6: ln 33-40*). One would be motivated to incorporate the features of an ultrasonic sensor as it is an effective means of communicating user signals as is already well taught in the art (*see McTeigue, col. 10: ln 15-*



40). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Nesbit with that of McTeigue and Chang in order to produce a golf practice apparatus that provides recording and instant playback of a video image of a golfer's swing being initiated by an ultrasonic trigger.

Regarding claim 2, Chang et al. teaches an imaging device wherein the object comprises at least one of a golf ball and a golf club (*see golf ball [102(a-b) and 100(a-b)] of Fig. 7 and the related description thereof*).

Regarding claims 3-4, 9-10, 13, 17-18, and 27-28, McTeigue et al. teaches a method wherein the frequency of the ultrasonic sounds waves is between 10 and 500 KHz as this is inherent with any ultrasonic device since this is the optimum range in which ultrasonic sound waves travel (*further evidenced by Wikipedia's Ultrasound*). Additionally, McTeague's ultrasonic transmissions inherently comprise sound waves that have periodic pulses that in order to be classified as 'ultrasonic' have a periodic duration of between about 10 and 5000 microseconds. As a periodic pulse is the time in which it takes a waveform to travel from peak to peak. This is calculated using the basic physic formula to determine frequency which is  $f = 1/T$  [*period*]. A simple translation of the frequency range that derives the ultrasound bandwidth would derive a period pulse in the range required by the applicant's invention.

Regarding claims 5-7, 14-15, and 25-26, McTeigue et al. teaches an ultrasonic imaging method however is silent with respect to an area of sonification having a diameter between about six inches and about two feet and beam angle that is between 1 and about 30 degrees. It is well known in the art that the propagation of waves deteriorates over a certain distance and degrees. As is with most wave emitting devices they radiate the signal in a circular shape. As the farther a

wave propagates the farther from the original source the weaker the signal becomes. In the art of sound imaging in order to produce a useable image a certain optimal range must be kept in order to produce an effective result. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to limit the use of the imaging device to the discovered effective range of the invention (*ie: 1 and about 30 degrees and 5 and about 15 degrees*). Furthermore, it has been held that discovering optimum ranges and values of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 8, 11, and 16, McTeigue et al. teaches a ultrasonic device that inherently emits sound waves periodically (*see col. 10: ln 25-56*). Additionally, McTeigue teaches a periodic sound wave that comprises pulses, wherein the time period between the pulses is greater than or equal to twice the distance from the ultrasonic trigger to a target area (*see col. 10: ln 25-56*).

### ***Response to Arguments***

Applicant's arguments filed 3/30/09 have been fully considered but they are not persuasive. The applicant's representative contends that neither Chang, McTeigue, Nesbit, Ogawa, nor Yamazaki teach or disclose the feature of a triggering system that works for both right and left handed users. Examiner respectfully disagrees. While Kiraly has been provided to show the use of a triggering camera system for both left and right handed users, the swing system adapted by McTeigue also teaches that measurements and triggering operations are dependent open the player's orientation. In McTeigue's system it incorporates a feature where the leading foot is measured and analyzed during the swing of the club when pressure is transferred from the

trailing foot to the leading foot. McTeigue specifically teaches in such an implementation that the system is adaptable between a right-handed and a landed user (*see col. 6: ln 26-55*).

***Conclusion***

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached at (571)-272-4437.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).

RH

June 3, 2009

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714